

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION**

SONY MUSIC ENTERTAINMENT, *et al.*,  
*Plaintiffs,*

v.

COX COMMUNICATIONS, INC, *et al.*,  
*Defendants.*

Civil No. 1:18-cv-950 (LO / JFA)

**COX’S PROPOSED PRETRIAL INSTRUCTIONS**

Defendants Cox Communications, Inc. and CoxCom, LLC (“Cox”), respectfully submit these proposed pretrial jury instructions for consideration by the Court. In accordance with Rule 51, Defendants attach hereto one set of their Proposed Pretrial Instructions with citations of authority as Appendix A, and a second set without citations of authority as Appendix B.

At the November 12 hearing, the Court suggested that the parties could propose more specific opening instructions for consideration at the pretrial conference. *See* November 12, 2019 Hr’g. Tr. at 76-77. In addition, in its order on Cox’s Motion *in Limine* No. 7 (To Preclude Plaintiffs From Relying On Infringement Notices As Proof Of Direct Infringement), the Court noted that “the Parties agree that the use of ‘infringement’ as a conclusion and ‘infringement notice’ as evidence of infringement require an instruction to the jury,” and invited the parties to “collaborate on an acceptable instruction before trial.” ECF No. 590 at 4. Finally, the parties agree that giving a pretrial instruction on the Digital Millennium Copyright Act (“DMCA”)—as the Court did in *BMG*—is appropriate here.

The parties have exchanged drafts of preliminary instructions on notices of alleged infringement and on the DMCA, but have not reached agreement. In addition, Plaintiffs have pro-

posed to Cox detailed general instructions. Cox believes that the Court's general civil case instruction, similar to what the Court instructed at the beginning of the *BMG* trial, paired with appropriate instructions on the notices of alleged infringement and the DMCA, is more appropriate for this case, leaving the parties to address what the case is about in their opening statements. If the Court, however, determines to present a more case-specific opening instruction as well, Cox proposes the instructions attached hereto. Cox also sets forth its proposed instructions on the DMCA and notices of claimed infringement.

Dated: November 25, 2019

Respectfully submitted,

/s/ Thomas M. Buchanan

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**CERTIFICATE OF SERVICE**

I hereby certify that on November 25, 2019, the foregoing was filed and served electronically by the Court's CM/ECF system upon all registered users.

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